IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION No.3943 OF 2006.

1. M/s. Sharda Education Society. (a Trust regisdtered under Bombay Public Trust Act, 1950 and the Society Registration Act) through it's Secretary/President, having its address at Saraswati Bhavan, Chhatrapati Shivaji Road, Opp. Dena Bank, Virar (West), Dist.Thane.

2. The Head Master, Achole High School (Hindi Medium), D, Gala Nagar, Chandresh Lodha Marg, Achole Road, Nalasopara (E), Dist.Thane.

..PETITIONERS.

Versus.

1. Smt. Geeta Raghunath Raut, C/o Krishnakant Damodar Mhatre, At post Kelva Road, Taluka Palghar, Dist. Thane.

2. The Block Officer, Panchayat Samiti, Vasai, District Thane.

3. The Education Officer (Secondary), Zilla Parishad, Thane. District Thane.

4. The State of Maharashtra, (Through: the Additional Govt. Pleader, Appellate Side, High Court, Bombay).

..RESPONDENTS.

Ms. Pallavi Vishwasrao h/f. Sureshkumar J. Panicker,Advocate for the Petitioner.

Mr. Gangadhar J. Sabnis Advocate for the Respondent No.1.

Ms. V. S. Mhaispurkar, Advocate for

Respondent No. 3 and 4.

CORAM:R.M.S.KHANDEPARKAR,J.

DATED:14th DECEMBER, 2006.

ORAL JUDGMENT.

1. Heard.

2. Rule. By consent the Rule is made returnable forthwith.

3. Though the various points are sought to be raised in this petition on both sides, it is not necessary to deal with all those points and suffice to refer only one point which relates to the non-maintainability of the appeal which was filed by the respondent no.1 before the School Tribunal and disposed of by the impugned judgment dated 13th September,2005.

4. It is the contention on behalf of the petitioners that the School was not recognized at the relevant time and, therefore, the provisions of M.E.P.S.Act were not attracted and hence the appeal filed by respondent no.1

under Section 9 of the said Act was not maintainable. Though initially the contention was sought to be denied and disputed on behalf of the respondents, consequent to the directions issued by this Court under order dated 23rd November, 2006, the Secretary to the Government in School Education & Sports Department, Mumbai has filed affidavit; wherein it has been clarified that the School in question was granted recognition for the first time by the Deputy Director of Education, Nasik Division, Nasik from the academic year 2000-01. Undisputedly, the appeal was filed in the year 1999 and was registered as Appeal No. 121 of 1999. Considering the facts which have come on record by way of affidavit on behalf of the Government, the learned Advocate for respondent no.1 has fairly conceded that in the facts and circumstances of the case as it is revealed that at the relevant time school was not recognized school, the School Tribunal had no jurisdiction to entertain the Appeal filed by the respondent no.1.

5. Considering the provisions of Section 9

and other provisions of the M.E.P.S.Act, obviously, the School Tribunal had no jurisdiction to entertain the appeal which was filed by respondent no.1. Therefore, the appeal No. 121 of 1999 is to be held as non-maintainable and, therefore, is liable to be dismissed on that count and for the same reason the impugned judgment and order cannot be sustained and is liable to be set aside. It is made clear that all other issues which were sought to be raised in the matter, are kept open and this Court has not expressed any opinion on any of those issues.

6. The petition, therefore, succeeds on the limited ground discussed above. The rule is made absolute in above terms with no order as to costs.

[R.M.S.KHANDEPARKAR,J]